



BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

**IN RE VIOXX MARKETING, SALES PRACTICES AND PRODUCTS
LIABILITY LITIGATION**

EDLA
SEC. L/3

Rosie Russaw, et al. v. Merck & Co., Inc., et al., M.D. Alabama, C.A. No. 2:06-557
Betty Whitehead, et al. v. Merck & Co., Inc., et al., N.D. Alabama, C.A. No. 2:06-1279
Edward Schwartz v. Merck & Co., Inc., et al., N.D. California, C.A. No. 3:06-4180
Patrick E. Murphy v. Merck & Co., Inc., et al., N.D. California, C.A. No. 4:06-4794
Anita Davis v. Merck & Co., Inc., et al., N.D. Florida, C.A. No. 4:06-356
Barbara Heet, et al. v. Merck & Co., Inc., et al., S.D. Illinois, C.A. No. 3:06-514
Vivian Copher, et al. v. Merck & Co., Inc., et al., E.D. Missouri, C.A. No. 4:06-1185
Inez Kincaid, et al. v. Merck & Co., Inc., et al., E.D. Missouri, C.A. No. 4:06-1186
Richard Helton, et al. v. Merck & Co., Inc., et al., E.D. Missouri, C.A. No. 4:06-1187
Minnie Smith, et al. v. Merck & Co., Inc., et al., E.D. Missouri, C.A. No. 4:06-1196
John James Mangani v. Merck & Co., Inc., et al., D. Nevada, C.A. No. 2:06-914
Kathie Bartlett, et al. v. Merck & Co., Inc., et al., D. Nevada, C.A. No. 3:06-359

06-11435
 06-11436
 06-11437
 06-11438
 06-11439
 06-11440
 06-11441
 06-11442
 06-11443
 06-11444
 06-11445
 06-11446

**BEFORE WM. TERRELL HODGES, CHAIRMAN, D. LOWELL JENSEN, J.
 FREDERICK MOTZ,* ROBERT L. MILLER, JR., KATHRYN H. VRATIL,
 DAVID R. HANSEN AND ANTHONY J. SCIRICA, JUDGES OF THE PANEL**

TRANSFER ORDER

Presently before the Panel are motions, pursuant to Rule 7.4, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001), by plaintiffs in these actions to vacate the Panel's orders conditionally transferring the actions to the Eastern District of Louisiana for inclusion in the Section 1407 proceedings occurring there in this docket. Defendant Merck & Co., Inc., favors inclusion of these actions in MDL-1657 proceedings.

On the basis of the papers filed and hearing session held (without oral argument), the Panel finds that these actions involve common questions of fact with actions in this litigation previously transferred to the Eastern District of Louisiana. Transfer of the actions to that district for inclusion in the coordinated or consolidated pretrial proceedings occurring there will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. Motions to remand to state court can be presented to and decided by the transferee judge. See, e.g., *In re Ivy*, 901 F.2d 7 (2d Cir. 1990); *In re Prudential Insurance Company of America Sales Practices Litigation*, 170 F.Supp.2d 1346, 1347-48 (J.P.M.L. 2001). The Panel further finds that transfer of these actions is appropriate for the reasons

* Judge Motz took no part in the decision of this matter.

Fee _____
 Process _____
 X Dkt'd _____
 CtRmDep _____
 Doc. No _____

- 2 -

expressed by the Panel in the original order directing centralization in this docket. In that order, the Panel held that the Eastern District of Louisiana was a proper Section 1407 forum for actions involving claims relating to Vioxx. *See In re Vioxx Products Liability Litigation*, 360 F.Supp.2d 1352 (J.P.M.L. 2005).

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, these actions are transferred to the Eastern District of Louisiana and, with the consent of that court, assigned to the Honorable Eldon E. Fallon for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

FOR THE PANEL:



Wm. Terrell Hodges
Chairman

